From: CommonWealth Magazine
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Lang: Keolis was on verge of walking away

A member of the MBTA's oversight board said the transit agency's commuter rail operator was on the verge of walking away from its $2.68 billion contract earlier this year when state officials agreed to pay the company at least $66 million extra over the course of the next six years.

Brian Lang, a union official who was appointed to the Fiscal Management and Control Board by Gov. Charlie Baker, portrayed the situation with Keolis Commuter Services very differently than other T officials did when the extra payments were authorized in July. The officials insisted the state was paying for new services that were needed to make the contract work better, but Lang said the T was in a difficult bargaining position.

"The Fiscal Management and Control Board inherited the contract with Keolis. We didn't negotiate it," Lang said. "As it turns out, the contract was not adequate for Keolis to actually continue to operate. They were on the verge of walking away from it. We were beholden to them, so in that context we negotiated the best deal that we could, but the result was another $66 million for them."

Asked if Keolis actually threatened to walk away from the contract, Lang said: "Not in those words, but it was a distinct possibility. From their point of view, the contract wasn't working. They were a French company. They were getting a tremendous amount of pressure from their headquarters and we were not in a position to say take it or leave it because if they would have left we would have been without a commuter rail system."

Lang and the other four members of the Fiscal Management and Control Board approved the contract changes with Keolis. Lang said the experience with Keolis taught him the danger of overreliance on private contractors. He said he believes the T should not privatize core operations, who then gain tremendous leverage in negotiations with the agency.

Keolis issued a statement saying it is committed to Massachusetts for the long-term, as evidenced by the company's decision to move its North American headquarters to Boston. "The changes made to the contract in July enable Keolis to deliver on a series of performance initiatives beyond the original contract to create a better passenger experience," the company said. "As a result, we have increased staffing and expanded the locomotive and coach fleet to achieve higher levels of customer service, consistent fare collection, and the strong on-time performance that our passengers expect and deserve."

Lang's comments about Keolis came on The Codcast during the course of a longer interview on his success as president of Unite Here Local 26 in leading dining hall workers through a three-week strike against Harvard University. Lang also talked about

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his role as a member of the Fiscal Management and Control Board and offered his views on privatization.

He brought up Keolis during the discussion, recalling the time when the T decided to pay Keolis an extra $11 million a year out of its operating budget and $4.3 million from its capital budget for a one-year pilot maintenance program for older locomotives and coaches. The T also extended a program that uses up to $5 million in financial penalties incurred by Keolis for poor performance to pay for assistant conductors and the operation of a passenger information center.

At the time, T officials and state transportation officials characterized the payments as beyond the scope of the original contract and necessary to improve on-time performance. "This is not about Keolis losing money," Transportation Secretary Stephanie Pollack said at the time. "This is only about investments that we think are needed for our passengers. We have learned during the first two years of the contract that the amount we were paying Keolis, particularly to maintain and take care of our locomotives and coaches, was not producing the performance that we wanted."

Lang said the lesson he took away from the situation was that the T should not privatize core services and give up valuable in-house expertise. "We have other contracts out there where we're in a similar position. I don't want to see us get into that position with the operation of the bus lines, the heavy rail, light rail, or the maintenance. If we lose our expertise completely - and I think over the decades we have lost a fair amount - we're going to be beholden to the private sector. If that happens, I think that could be a disaster for the T."

-Bruce Mohl

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